

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 732

Introduced by Senator Soto
(Coauthor: Assembly Member Benoit)

February 21, 2003

An act to amend Sections 597b, 597c, 597i, and 597j of the Penal Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

SB 732, as amended, Soto. Cockfighting.

Existing law makes it a misdemeanor to aid, abet, or be present at a cockfight; to own, possess, keep, or train any cock with intent that it be used for fighting; or to manufacture, buy, sell, or possess cockfighting implements.

This bill would instead provide that these offenses are punishable by imprisonment in a county jail for a period not to exceed one year ~~or imprisonment in the state prison for 16 months, 2 or 3 years, or~~, by a fine not to exceed ~~\$20,000~~ \$1,000, or by both imprisonment and fine. This bill would also specify that ~~a person with 2 or more convictions upon a 2nd or subsequent conviction~~ of specified animal fighting provisions ~~the person~~ shall be punishable by imprisonment in the state prison for 16 months, 2 or 3 years and ineligible for probation, ~~or a conditional or suspended sentence~~ *confined in the county jail for not less than 6 months and shall be subject to a fine not to exceed \$25,000, except in unusual circumstances where the interests of justice would be better served by the imposition of a lesser sentence. The bill would also provide that aiding and abetting a cockfight shall consist of something more than merely being present or a spectator at a place where that fighting is occurring.* The bill would make legislative findings and

declarations and a statement of legislative intent with respect to the need for this measure. Because this bill would change the definition of various crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature ~~find~~ *finds* and declares the
2 following:

3 (1) Cockfighting has been identified as a probable source of
4 Exotic Newcastle Disease (END) which has devastated the
5 California poultry industry.

6 (2) According to research compiled by a report from the Senate
7 Committee on Agriculture and Water Resources the END virus
8 likely entered California through game fowl smuggled in from
9 Mexico and Central America.

10 (3) Game fowl are predominantly used for “cockfighting;”
11 game bird owners and producers bring their birds together from all
12 parts of southern California for these events.

13 (4) Cockfighting events expose birds to the END virus; at these
14 events some diseased birds are bought, sold, and then returned to
15 a home facility, resulting in an extremely rapid spread of the
16 disease.

17 (b) It is the intent of the Legislature in enacting this act to
18 toughen the laws prohibiting cockfighting in order to reduce the
19 spread of END and thereby better protect the public health and
20 California agriculture.

21 SEC. 2. Section 597b of the Penal Code is amended to read:

22 597b. (a) Except as provided in subdivision (b), any person
23 who, for amusement or gain, causes any bull, bear, or other animal,
24 not including any dog, to fight with like kind of animal or creature,
25 or causes any animal, including any dog, to fight with a different
26 kind of animal or creature, or with any human being; or who, for



1 amusement or gain, worries or injures any bull, bear, dog or other
2 animal, or causes any bull, bear, or other animal, not including any
3 dog, to worry or injure each other; and any person who permits the
4 same to be done on any premises under his or her charge or control;
5 and any person who aids, abets, or is present at the fighting or
6 worrying of an animal or creature, as a spectator, is guilty of a
7 misdemeanor.

8 (b) (1) Notwithstanding subdivision (a), any person who, for
9 amusement or gain, causes any cock to fight with another cock or
10 with a different kind of animal or creature or with any human
11 being; or who, for amusement or gain, worries or injures any cock,
12 or causes any cock to worry or injure another animal; and any
13 person who permits the same to be done on any premises under his
14 or her charge or control, and any person who aids or abets the
15 fighting or worrying of any cock is guilty of a ~~crime~~ *misdemeanor*
16 punishable by imprisonment in a county jail for a period not to
17 exceed one year ~~or imprisonment in the state prison for 16 months,~~
18 ~~two or three years, a fine not to exceed twenty thousand dollars~~
19 ~~(\$20,000), or by both, by a fine not to exceed one thousand dollars~~
20 ~~(\$1,000), or by both that imprisonment and fine.~~

21 ~~(2) Any person who has previously been convicted on two~~
22 ~~separate occasions of violating Section 597b, 597c, or 597j and~~
23 ~~served a term of imprisonment, received a conditional sentence, or~~
24 ~~received probation for at least one of those violations shall be~~
25 ~~punishable by imprisonment in the state prison for 16 months, two~~
26 ~~or three years and shall be ineligible to receive probation or a~~
27 ~~conditional or suspended sentence.~~

28 (2) *Upon a second or subsequent conviction of Section 597b,*
29 *597c, or 597j, the person shall be confined in the county jail for not*
30 *less than six months and shall be subject to a fine not to exceed*
31 *twenty-five thousand dollars (\$25,000), except in unusual*
32 *circumstances where the interests of justice would be better served*
33 *by the imposition of a lesser sentence.*

34 (c) *For the purposes of this section, aiding and abetting a*
35 *violation of this section shall consist of something more than*
36 *merely being present or a spectator at a place where a violation is*
37 *occurring.*

38 SEC. 3. Section 597c of the Penal Code is amended to read:

39 597c. (a) Except as provided in subdivision (b), whoever
40 owns, possesses, keeps, or trains any animal, with the intent that

1 the animal shall be engaged in an exhibition of fighting, or is
2 present at any place, building, or tenement, where preparations are
3 being made for an exhibition of the fighting of animals, with the
4 intent to be present at that exhibition, or is present at that
5 exhibition, is guilty of a misdemeanor.

6 (b) (1) Notwithstanding subdivision (a), whoever owns,
7 possesses, keeps, or trains any cock or other bird, with the intent
8 that the cock or other bird shall be engaged in an exhibition of
9 fighting is guilty of a crime punishable by imprisonment in a
10 county jail for a period not to exceed one year ~~or imprisonment in~~
11 ~~the state prison for 16 months, two or three years,~~ by a fine not to
12 ~~exceed twenty thousand dollars (\$20,000), or by both exceed one~~
13 ~~thousand dollars (\$1,000), or by both that~~ imprisonment and fine.

14 ~~(2) Any person who has previously been convicted on two~~
15 ~~separate occasions of violating Section 597b, 597c, or 597j and~~
16 ~~served a term of imprisonment, received a conditional sentence, or~~
17 ~~received probation for at least one of those convictions shall be~~
18 ~~punishable by imprisonment in the state prison for 16 months, two~~
19 ~~or three years and shall be eligible to receive probation or a~~
20 ~~conditional or suspended sentence.~~

21 *(2) Upon a second or subsequent conviction of Section 597b,*
22 *597c, or 597j, the person shall be confined in the county jail for not*
23 *less than six months and shall be subject to a fine not to exceed*
24 *twenty-five thousand dollars (\$25,000), except in unusual*
25 *circumstances where the interests of justice would be better served*
26 *by the imposition of a lesser sentence.*

27 (c) This section shall not apply to an exhibition of fighting of
28 a dog with another dog.

29 SEC. 4. Section 597i of the Penal Code is amended to read:

30 597i. (a) It shall be unlawful for anyone to manufacture, buy,
31 sell, barter, exchange, or have in his or her possession any of the
32 implements commonly known as gaffs or slashers, or any other
33 sharp implement designed to be attached in place of the natural
34 spur of a gamecock or other fighting bird.

35 (b) Any person who violates any of the provisions of this
36 section is guilty of a crime punishable by imprisonment in a county
37 jail for a period not to exceed one year ~~or imprisonment in the state~~
38 ~~prison for 16 months, two or three years,~~ by a fine not to exceed
39 ~~twenty thousand dollars (\$20,000) one thousand dollars (\$1,000),~~
40 or by both *that* imprisonment and fine and upon conviction thereof

1 shall, in addition to any judgment or sentence imposed by the
2 court, forfeit possession or ownership of those implements.

3 SEC. 5. Section 597j of the Penal Code is amended to read:

4 597j. (a) Any person who owns, possesses, keeps, or trains
5 any bird or animal with the intent that it be used or engaged by
6 himself or herself, by his or her vendee, or by any other person in
7 an exhibition of fighting is guilty of a crime punishable by
8 imprisonment in a county jail for a period not to exceed one year
9 ~~or imprisonment in the state prison for 16 months, two or three~~
10 ~~years, or, by a fine not to exceed twenty thousand dollars~~
11 ~~(\$20,000) one thousand dollars (\$1,000), or by both that~~
12 imprisonment and fine.

13 (b) This section shall not apply to an exhibition of fighting of
14 a dog with another dog.

15 ~~(c) Any person who has previously been convicted in two~~
16 ~~separate occasions of violating Section 597b, 597c, or 597j and~~
17 ~~served a term of imprisonment, received a conditional sentence, or~~
18 ~~received probation for at least one of those convictions shall be~~
19 ~~punishable by imprisonment in the state prison for 16 months, two~~
20 ~~or three years and shall be ineligible to receive probation or a~~
21 ~~conditional or suspended sentence.~~

22 (c) *Upon a second or subsequent conviction of Section 597b,*
23 *597c, or 597j, the person shall be confined in the county jail for not*
24 *less than six months and shall be subject to a fine not to exceed*
25 *twenty-five thousand dollars (\$25,000), except in unusual*
26 *circumstances where the interests of justice would be better served*
27 *by the imposition of a lesser sentence.*

28 SEC. 6. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.